IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3779 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS
and
Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT VET-PHARMA PRODUCTS LTD
Versus
STATE OF GUJARAT

Appearance:
1. Special Civil Application No. 3779 of 2001
DR SONIA HURRA for Petitioner No. 1
MR NC THAKKAR,AGP Respondent No. 1
MR HARESH J TRIVEDI for Respondent No. 2
MR MB GANDHI for Respondent No. 3
MRS TRUSHA M GANDHI for Respondent No. 3
NOTICE SERVED BY DS for Respondent No. 4-5

CORAM : MR.JUSTICE K.R.VYAS
and
MR.JUSTICE H.H.MEHTA

Date of decision: 03/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE K.R.VYAS)

Rule. Learned Counsel for respective parties waive service.

With consent of learned Counsel appearing for the parties, this petition is heard today.

The petitioner Gujarat Vet-Pharma Products Ltd.who is the purchaser of M/s Megatul Industries Ltd., in pursuance to the advertisement for auction of the same unit under section 29 of the Gujarat State Financial Corporations Act, 1951 by Gujarat State Financial Corporation, has filed this petition for appropriate writ, order or direction, directing the respondent no.2Gujarat Pollution Control Board to grant effluent discharge permission to the petitioner Unit. It is not in dispute that the old unit M/s Megatul Industries Ltd. was commissioned in 1996, obtained site clearance, no objection certificate and consent under the Water (Prevention and Control of Pollution) Act 1974 to manufacture dye intermediates, also obtained effluent discharge permission of 20 m3 per month. In 1997, the said unit became sick and could not make payment of instalments of loan advanced by GSFC. In the year 1998, GSFC took possession of the said unit and advertised for auction under section 29 of the GSFC Act, 1951. The petitioner, in response to the same, purchased the said old unit for a consideration of Rs. 1.09 crores for the purpose of agrochemical intermediates. The petitioner was given possession by GSFC of the old unit on 4.8.1998.

On 28.4.1999, the petitioner was granted site clearance certificate. On 15.7.1999, sale deed for the same was executed in favour of the petitioner and on 27.8.1999, GIDC transferred the old unit in the name of the petitioner. On 8.3.2001, Consent Order no. 23067 under the Water (Prevention and Control of Pollution) Act, 1974 was granted to the petitioner.

It is the case of the petitioner that even though it had made several representations to the respondent no.2 for grant of discharge permission, no such permission has been granted and the petitioner is informed by respondent no.2 that in absence of any order from this Court, it is not possible for the Board to do so. Hence, the present petition.

The learned Counsel appearing for GPCB invited our attention to the observations made by the Division Bench in its order dated 21.10.1999 passed in Special Civil Application No.4473 of 1997 wherein this Court has observed that the new industries coming up in the area cannot be allowed to discharge their trade effluent in Amla Khadi. In the submission of learned Counsel for the

respondent no.2, the said observations of the Division Bench will preclude the Board from not granting permission to discharge trade effluent. In our opinion, the said observations cannot come in the way of the Board to decide the application of the petitioner inasmuch as the petitioner Unit has been granted NOC in the year 1996 as well as site clearance certificate on 28.4.1999 i.e. much prior to the judgment rendered in Special Civil Application No. 4473 of 1997. This is also in view of the fact that the petitioner has made substantial investment of more than Rs. 8 crores prior to the said order of the Division Bench. It is also not disputed that the order passed in Special Civil Application No. 4473 of 1997 was for the new units whereas the petitioner company has purchased the old unit which obtained site clearance certificate, NOC and consent under the Water (Prevention and Control of Pollution) Act, 1974 to manufacture dyes intermediates after having effluent discharge permission of 20 M3 per month. Therefore, on the basis of the order passed in Special Civil Application No. 4473 of 197, the petitioner cannot be deprived by the amendment of condition with regard to discharge of trade effluent in GIDC drain, especially when GIDC has no objection subject to the condition of amendment by GPCB. In the circumstances, we may like to give the following directions.

The respondent no.2 shall consider the petitioner's application for no objection certificate in accordance with law and in light of the observations made in this order and shall consider the prayer to grant permission to the petitioner Unit for discharge of trade effluent, in accordance with law. Mr. Trivedi, learned Counsel for respondent no.2 states that the respondent no.2 shall take appropriate decision within three weeks from the date of receipt of this order.

With the aforesaid directions, this petition is accordingly allowed and disposed of with no order as to costs.

(K.R.Vyas,J.)

(H.H.Mehta,J.)
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